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# **Licencing of an Individual to Place a Child for Adoption The Child Welfare Act, 1978**

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Division

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## INTRODUCTION

These materials were prepared to introduce you to the provisions of The Child Welfare Act, 1978 regarding adoptions, and Rules governing practice and procedure in the Provincial Courts (Family Division) for adoption proceedings.

It is your responsibility to ensure that all requirements of the law are met.

Copies of the consolidated Child Welfare Act, 1978, (incorporating Regulations made under the Act and Rules of the Provincial Courts (Family Division) may be ordered from:

Ontario Government Bookstore  
880 Bay Street  
Toronto, Ontario  
Tel.: 965-2054

Application forms for licensing are available from:

Children's Services Division  
Operational Support Unit  
700 Bay Street, 2nd Floor  
Toronto, Ontario  
Tel.: (416)-965-4881

Completed applications for a licence should be forwarded to:

The Director of Child Welfare (Head Office)  
Children's Services Division  
700 Bay Street, 2nd Floor  
Toronto, Ontario







## THE PERSON OTHER THAN THE AGENCY

### The Licensing Requirement

A person who intends to place a specific child for adoption may do so only under the authority of a licence issued by a Director of Child Welfare. The licence is issued for the purpose of the specific placement, and may be subject to terms and conditions prescribed by the Director.

s60(5)

Failure to obtain a licence prior to placement of the child for adoption is an offence punishable on conviction by a maximum fine of \$5,000 for each day the offence continues or to imprisonment for a maximum term of 3 years or both.

s94(4)

### Qualifying for a Licence

The issue of a licence to a person other than an adoption agency is in the discretion of the Director of Child Welfare appointed for the purpose of the licensing provision of The Child Welfare Act, 1978.

s60(5)

### Making Application

Application for a licence is made to the Director of Child Welfare (Form 11), accompanied by the following:

O. Reg. 388/79  
s31(1)

- 1) Notice of Proposed Placement of Child for Adoption
- 2) Name and qualifications of the person you propose to make the homestudy of the prospective adoptive parents
- 3) Social and medical history of the child's parents (Form 20-00-162)
- 4) Filing fee of \$10, payable to the Treasurer of Ontario.

O. Reg. 388/79  
s31(2)

O. Reg. 388/79  
s31(3)

The Director may require additional information from the applicant, if he considers it necessary to his determination of the applicant's compliance with The Child Welfare Act, 1978 and its Regulation.

O. Reg. 388/79  
s31(2)(d)

### **Term of a Licence**

The licence is valid for one year from the date of issue, and is not renewable.

O. Reg. 388/79  
s31(4)

### **Transferability of a Licence**

A licence cannot be transferred.

s60(6)

### **Refusal to Issue a Licence**

The Director may refuse to issue a licence if, in his opinion, the applicant or any of his employees is not competent to place children for adoption in a responsible manner in accordance with The Child Welfare Act, 1978 and its Regulation, or where the past conduct the applicant or any of his personnel gives the Director reasonable ground to believe that the licence privilege will be abused.

s.61(1)

If the Director intends to reject an application for a licence, he must give written notice to the applicant, together with reasons for his proposed rejection (Form 13).

s.62(5)(6)  
O. Reg. 388/79  
s32(1)

The applicant has 15 days from his receipt of that Notice to request the Children's Services Review Board to review the Director's decision.

s.62

Notice of the request for review (Form 14) must be mailed or delivered to the Director within 15 days of the applicant's receipt of Form 13.

O. Reg. 388/79  
s32(2)

### **Suspension of a Licence**

A licence may be suspended without a hearing if, in the opinion of the Director, the operation of the licensee constitutes an immediate threat to the health, safety or welfare of any child in its charge.

Notice of the provisional suspension must be given to the licensee with the Director's reasons for taking such action. (Form 13) This decision may be reviewed by the Children's Services Review Board, if the licensee files a request for review (Form 14) within 15 days of receipt of the Director's decision.

s64

### **Revocation of a Licence**

A Director may revoke a licence in any of the following circumstances:

- if in his opinion, the licensee has contravened a condition of the licence or any provision of The Child Welfare Act, 1978 or its Regulations,
- if in his opinion, the licensee has knowingly permitted contravention of a term of the licence or any provision of the Act or its Regulations by anyone under his control or direction or associated with him,
- if in his opinion any person has made a false statement in the application for a licence, or in any report, document or information required by the act or by any other statute to which the licensee is subject,

Notice of the Director's proposal must be given to the licensee, together with his written reasons for revocation. (Form 13) A licensee may request review of the decision by the Children's Services Review Board, if a request for review (Form 14) is filed within 15 days of receipt of the Director's decision.

## Records

A separate file must be opened and maintained for each of the following persons for whom the licensee provides service:

- 1) a parent/parents who are relinquishing a child for adoption
- 2) a prospective adoptive parent
- 3) each child who is placed for adoption
- 4) each foster family.

Each file is to be reviewed and updated at least every 6 months until it is closed. A permanent record of the contents of a closed file is to be retained by the licensee. O. Reg. 388/79  
s34

Once a closed file is no longer required, its contents must be transferred to a Director of Child Welfare. O. Reg. 388/79  
s34(2)

The following reports must be prepared before a child is placed for adoption:

- 1) Social History of the child's parents (Form 20-00-162(10/79))
  - 2) Medical History of the child's parents (Form 20-00-160(7/79))
- O. Reg. 388/79  
s34(3)
- 3) Social History of the child (Form 20-00-161(6/79)), unless the child being placed is a newborn



- 4) Medical History of the child (Form 20-00-160(6/79)),  
unless the child being placed is a newborn O. Reg. 388/79  
s34(4)

The Director of Child Welfare will require the individual to provide him with a copy of the social and medical histories of the child's parents as part of the documentation available to him at the time he is considering the proposed placement of the child for adoption.

O. Reg. 388/79  
s34(3)

If the child to be placed is not yet born, the social and medical histories of the child are to be forwarded to the Director when the licensee registers the placement. (Form 18).

- 5) Homestudy of the prospective adoptive parents prepared by a person approved for such purpose by the Director of Child Welfare. O. Reg. 388/79  
35(1)

O. Reg. 388/79  
35(2)

No child may be placed in an adoptive home until a complete homestudy of his prospective adopters has been taken. The homestudy forms the basis upon which the Director of Child Welfare permits placement of a child with prospective adopting parents.

s65(3)(3)(6)(7)

The Director of Child Welfare will not approve a proposed adoption placement in the absence of a homestudy.

O. Reg. 388/79  
s35(2)

If the individual wishes to place a newborn directly from the child's place of birth, the homestudy report should be in the Director's hands at least 6 weeks before the child's birth to ensure a decision on the proposed placement in advance of the anticipated date for placement.

O. Reg. 388/79  
s35(3)

6. Notice of Proposed Placement (Form 16), submitted to the Director of Child Welfare for approval at least 2 months before the anticipated date of placement, unless the Director agrees to receive it at a later time.

O. Reg. 388/79  
39(1)

### **The Director's Approval of the Proposed Placement**

If the Director issues the licence and approves the proposed placement the individual will be notified accordingly (Form 17) and may place the child with the prospective adoptive parents.

O. Reg. 388/79  
s39(2)

### **When the Child May Be Placed**

#### Termination of all Access Rights

No child may be placed for adoption until all rights of access to him by his birth parents or relatives have been terminated.

s69(15)

#### Acknowledgement of Adoption Placement

The adoptive parents acknowledge the child's placement with them in Form 20-00-157. The licensee should retain the original of the executed acknowledgement on file and a copy should be left with the adoptive parents.

### **Inability to Place a Child**

If the child cannot be placed in the adoptive home within 60 days of the Director's approval of the placement, the licensee must notify the Director of Child Welfare (Head Office).

O. Reg. 388/79  
s47(2)

### **Responsibility to the Approved Adopters**

The licensee must ensure that the social and medical history of the child is shared with the prospective adoptive parents prior to the child's adoption, except for any information that would identify the child's birth parents.

O. Reg. 388/79  
s37

The licensee should also ensure that a social worker visits the home of the adoptive parents as soon as practicable after the placement, and that subsequent visits are arranged, as required, until the adoption order is made.

### **Registration of the Placement**

The placement of the child in the home of approved adopters is to be registered with the Director of Child Welfare within 30 days of the child's placement (Form 18) and accompanied by the reports of the child's social and medical histories.

O. Reg. 388/79  
s47(1)

### **Guardianship of the Child**

If the child is placed for adoption by a person licensed for the specific purpose, rights and responsibilities of legal guardianship remain with the child's birth parents or guardian until a final adoption order is made. At that time legal guardianship vests in the adopting parents.

s69(3)

The child's birth parents should therefore be cautioned to keep the licensee advised of their whereabouts during the adoption probation, and remain available for the execution of any consents to medical treatment necessary for the child during that time.

## **Probationary Term**

No adoption order can be made until the child has resided with his adoptive parents for 6 months, unless the Court is satisfied that the requirement should be dispensed with in the particular circumstances of the case. The Act requires the approval of a Director of Child Welfare to any motion to abridge the probationary term.

s75(1)

## **Report on the Child's Adjustment in the Home**

At the end of the probationary period the social worker who supervises the placement must report on the child's adjustment in the adoptive home to the Director of Child Welfare (Form 20-00-039). In joint applications, the social worker responsible for the report must confirm that he or she has examined the marriage certificate of the applicants. The child's relationships within the adoptive family, and any significant changes since the time of the homestudy should form a particular focus, and the financial standing of the applicants and any references briefly summarized.

s75(4)

The report, if affirmative, forms the basis upon which the Director of Child Welfare recommends to the Court that an adoption order is in the child's best interests.

s75(1)

## **Breakdown of the Adoption Placement**

If an adoption placement is disrupted, the licensee must report the disruption to Operational Support Unit, Children's Services Division, giving reasons for the breakdown.

The licensee must advise the adoptive parents of their right to request review by a Director of Child Welfare of the licensee's removal of the child from their home and the procedure for so doing.



The Director may either confirm the decision of the licensee or rescind the decision altogether, and to make any further decision that is otherwise allowed the agency under the Act.

### **Finding the Child Another Placement**

The licensee assumes financial responsibility for the child whose placement has failed, and the task of locating another placement for him.

The local Children's Aid Society should be consulted for assistance if any child's placement is uncertain or presenting difficulties.

### **Death of a Child**

The Operational Support Unit is to be notified immediately if the child dies while on adoption placement. Circumstances surrounding the death are to be detailed in the notification.

### **The Adoption Which Remains Unfinalized After 1 Year**

#### Notifying the Director of Child Welfare (Head Office)

A child whose adoption has not been finalized within one year must be brought to the attention of the Director of Child Welfare. Finalization means an adoption order, not merely placement with adoptive applicants. The one-year period is calculated from the time all required consents were in the hands of the adoption agency, Children's Aid Society or licensed individual responsible for the child's placement.



## MISCELLANEOUS

### **The Director's Rejection of Adoptive Applicants**

If the Director of Child Welfare intends to reject prospective adopters as a result of the homestudy report he must give written notice to the applicants and the agency or licensee serving them, together with reasons for his rejection (Form 13).

s65(7)

Any person receiving such notification is entitled to a review of the Director's decision by the Children's Services Review Board. The same entitlement to review is available to prospective adopters or the agency or licensed individual dissatisfied with any condition the Director attaches to his approval of a placement.

s65(9)

Review must be requested within 15 days of the applicant's receipt of the Director's decision.

The Review Board has no power, however, to guarantee the placement of a child with the applicant adopters, nor can it overrule criteria for adoptive applicants which are based on a lack of available children.

### **The Licensee's Removal of a Child or Refusal to Place with Approved Adopters**

If a licensee refuses to place a child with an approved adopter or removes a child from an existing placement, the aggrieved person may request a review of that decision by a Director of Child Welfare (Form 14).

The Director may either confirm the decision of the licensee or rescind the decision altogether and make any further decision that is otherwise allowed the licensee under the Act. (e.g. registration of the family with available resources).

s66

### **Charges Payable by Adoptive Parents**

A licensee may charge an adoptive parent actual expenses incurred by it in providing services in connection with the adoption of the child.

The maximum amount permitted is \$1500 per adoption, O. Reg. 388/79  
although the Director may approve an amount in excess of s44(1)  
the maximum when he is of the opinion that circumstances  
of the case justify a higher charge.

O. Reg. 388/79  
s44(2)

When an account for services is submitted to the adoptive  
parents, they are to be notified of their right to request a  
review of the amount charged.

O. Reg. 388/79  
s45(4)

Adoptive parents may make written request to the Director  
to review any amount charged to them in connection with  
the adoption.

O. Reg. 388/79  
s45(1)

Proof of the expenditures that are the subject of the  
charges must be submitted to the Director if he notifies the  
agency of the request for review. The review may result in  
either the Directors approval of the amount as charged to  
the adoptive parents or a reduction of the charges.

O. Reg. 388/79  
s45(2)

O. Reg. 388/79  
s45(3)

The Director may take into consideration the particulars of  
any such review of an account charged to the adoptive  
parents when he is considering an application to renew the  
agency's licence for a further licence.

O. Reg. 388/79  
s45(5)

A licensee who charges in excess of the expenses permitted  
by Regulation and every director, officer or employee of the  
Agency who knowingly concurs with the licensee's action  
also commits an offence and is liable on conviction to a  
maximum fine of \$5,000 or to imprisonment for a maximum  
term of 3 years, or to both.

s94(5)



### **Prohibition Against Payments for Adoptions**

Other than the payment of proper expenses incurred in connection with an adoption, no money or money's worth may change hands in relation to:

- o the adoption or proposed adoption of a child
- o the giving or signing of any consent to a child's adoption
- o the transfer of custody or control of the child with a view to adoption
- o the conduct of negotiations or the making of arrangements with a view to a child's adoption.

s67



# **THE HOMESTUDY OF PROSPECTIVE ADOPTERS**

**(Guidelines)**





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## THE HOMESTUDY OF PROSPECTIVE ADOPTERS

### Persons Qualified to Conduct the Homestudy

The homestudy of prospective adopters may be undertaken only by persons approved by the Director of Child Welfare. The Director must be satisfied that a person suggested by a licensee as one appropriate for the task has experience and expertise necessary to complete an adequate homestudy. In general applicants will be expected to have as a minimum qualification the equivalent of a Social Worker II classification as defined by subsection 19(3) of Ontario Regulation 388/79 made under The Child Welfare Act, 1978, with a minimum two years experience in adoption services or a related field.

Persons approved to conduct the homestudy should be familiar with the Adoption Part of The Child Welfare Act, 1978 (Part III), and Rules governing practice and procedure in the Provincial Courts (Family Division) as they relate to adoption. The latter is particularly important if the social worker will be assisting the adoptive parents with finalization of the adoption.

Persons seeking the Director's approval to conduct a homestudy can obtain the necessary application form from:

The Director of Child Welfare (Head Office)  
Children's Services Division  
Ministry of Community & Social Services  
700 Bay Street, 2nd Floor  
Toronto, Ontario  
Attention: Mrs. Victoria Leach

The person seeking the Director's approval to complete the home study should have no conflict of interest which may influence his or her judgment in the preparation of the report. The fee for the homestudy should not depend on the success of the adoption application. The Director may inquire into any relationship between the person proposed to conduct the home study and the proposed adoptive parents to determine whether that relationship might impair the objectivity of the homestudy.

The Director of Child Welfare (Head Office) will maintain a record of those persons he approves to conduct homestudies of prospective adopters. The list will be distributed on request to persons making application to the Director for a license to place a child for adoption. A social worker approved to conduct a homestudy will be added to the list, unless he or she indicates otherwise on the Request for Approval.

## Contents of the Homestudy

The homestudy is the basis upon which the Director of Child Welfare permits the placement of a child with prospective adopters. The report is the end result of a series of interviews whereby the applicants and the social worker mutually evaluate the suitability of the applicants for adoptive parenthood, a process of both assessment and education. The homestudy should include discussion and documentation of the following:

Identifying Information of the Applicants - names, address, telephone numbers.

Dates and Location of Homestudy Interviews.

Physical Description of each applicant - ethnic background; outstanding physical characteristics; height; weight.

Education History of each Applicant - highest level of educational endeavour; how well the applicant achieved; motivation for education; types of training or upgrading undertaken by the applicant; worker's estimation of academic achievement of each applicant.

Employment History - type of job, past and present; steadiness of employment; motivation; job pressures and satisfactions; attitude toward present employment.

Family History - brief description of each applicant's family; any outstanding physical or emotional characteristics; education/occupation; personalities and relationships; how applicant's upbringing has affected his own parenting ideas.

Medical and Psychiatric History - any outstanding medical and psychiatric problems; history of medical treatment and/or hospitalizations; medical or other reasons for childlessness. All relevant medical data is to be attached to the homestudy.

Personality Traits - leadership qualities, sense of humour, moods, eccentricities, sense of responsibility, initiative, social interaction, demonstrativeness, assertiveness, ability to tolerate stress (illustrate with at least one example), degree of respect for differences.

Religious Beliefs and Practices - role of religion in each applicant's life; feelings about and plans for religious training of the child.

Interests and Hobbies - leisure time activities and other interests. Comment if there are none.

Finances - source and level of income; management of finances and debts; general financial position - socioeconomic status.

Accommodation - type of accommodation, general appearance, housekeeping standards, neighbourhood.

Present Constellation of the Family - immediate family members and others in household.

Marital Relationship - quality of relationship, feelings about each other, ability to relate to each other.

Parent-Child Relationship and Attitudes to Parenting - quality of relationship; role models followed; attitude to and respect for children's attitude to parenthood; degree of enjoyment and satisfaction with parenting; ability to relate to the child (significant generation gap); applicant's involvement and experience with children.

Problem-solving Ability - ability to appropriately recognize and identify problems; flexibility; identification of coping patterns used to deal with functional problems (e.g., finances, health) and with affective problems (e.g., emotional aspects of life) (although functional and affective problems frequently merge, a differentiation is made for investigational purposes); previous attempts to solve problems.

Affective Expression and Involvement - ability of family to express appropriate feelings, positive and negative, and in the appropriate quantity; degree and quality of emotional involvement in interests and activities of others.

Autonomy - capacity for independent action; ability to make separate, reasonable choices; view of self as a separate individual rather than as an extension of another; assumption of responsibility for one's own decisions.

Communication Patterns - affective communication (e.g., communication of feelings) and instrumental communication (e.g., communication concerning ongoing tasks of family life); quality of communication patterns (clear, masked, direct, displaced).

Role Behaviour - appropriateness of role assumed by each applicant; traditional role, idiosyncratic roles; rigidity, flexibility; perception of own roles and those of other family members.



Modes of Behaviour Control - consistent or inconsistent; rigid, flexible, laissez-faire, chaotic.

Motivation for Adoption - reasons applicants want to adopt; social worker's impression of motivation, feelings about childlessness.

Understanding of Adoption - the legal, social and emotional aspects; attitudes toward telling the child he is adopted and sharing of his history with him; attitudes toward any future contact the child wishes with his birth family; attitudes towards biological parents of the child.

Previous Adoption Experience - number of children, when, where, through which Agency or individual, and results; if re-application, describe integration of adopted child into family; acceptance by any other children in the family of a plan for another family member.

Description of Child Requested - sex, age range, race/other characteristics acceptable to the applicants.

Social Worker's Evaluation - relevant strengths of each applicant - those qualities that can be seen as healthy actions and accomplishments and which augur a successful integration of a child into the family; relevant weaknesses - areas of concern which might cause potential problems; the social worker's professional opinion of the type of child who would benefit from placement in the applicant's home.

### **Documenting Contacts with the Prospective Adopters**

A copy of the homestudy report is to be retained in the file maintained by the licensee acting for the prospective adopters. All contacts between the prospective adopters and the person conducting the homestudy are to be documented for recording in that file.

### **Rejection or Withdrawal of Prospective Adopters**

If the person conducting the homestudy does not approve the adopting applicants for a placement or where the adopting applicants withdraw their request to adopt during the homestudy process, he or she must notify the Director of Child Welfare (Head Office) as well as the licensee (or prospective licensee). Reasons for the rejection of the applicants as prospective adopters or their withdrawal should be documented in that notification.

## **Reporting the Homestudy**

The Homestudy Report, when completed, is to be delivered to the person or agency acting for the prospective adopters. It is the responsibility of the licensee (or prospective licensee) to submit the report to the Director of Child Welfare, together with the request for the Director's approval of the proposed placement of the child for adoption. A copy of the homestudy report should be retained by the licensee in his client's file.

## **Ensuring Immediate Placement of a Newborn**

Where an adoption agency or licensed person proposes to place a newborn child for adoption, subsection 35(3) of Ontario Regulation 388/79 made under The Child Welfare Act, 1978 requires the homestudy report to be forwarded to the Director of Child Welfare at least six weeks before the child's expected date of birth, unless the Director agrees to receive the report at a later date. Each homestudy report is to be accompanied by the social and medical histories of the child's parents. These time restrictions should be kept in mind if you are engaged in a homestudy for prospective adopters of a newborn.

## **Participation in the Child's Placement**

It may be appropriate that the person conducting the homestudy share the child's background with the adopting parents and participate in the placement of the child. In such cases, the social worker should ensure that the adopting parents have a verbal and written presentation of the histories of the child's parents (with all identifying information deleted) and that all documents necessary to ensure proper placement (e.g., acknowledgment of placement) are completed and in order. Guardianship of the child pending finalization of the adoption, and the respective rights and responsibilities of the licensee/birth parents and adopting parents should be clearly delineated.

## **Supervision of the Placement**

The person supervising the placement should visit the adoptive home within seven days of the child's placement, and subsequently as required (usually three times). All contacts with the adoptive family should be recorded (see p. 4).

If during the supervision period the social worker is concerned about the social, emotional, or physical welfare of the child to be adopted, the adoption agency or licensee must be informed immediately. The concerns are to be documented in the file maintained by the licensee for the adoptive applicants (see p. 4).

At the end of the probationary period, a report on the adjustment of the child in the home must be submitted to the Director of Child Welfare. In joint applications for a child's adoption, the social worker responsible for the report must confirm that he or she has examined the marriage certificate of the applicants. The child's relationships within the adoptive family, and any significant changes since the time of the homestudy should form a particular focus of the report, and the financial standing of the applicants and any references should be briefly summarized. The report, if affirmative, forms the basis upon which the Director of Child Welfare recommends to the Court that an adoption order is in the child's best interests.

Homestudy reports are to be forwarded to:

The Director of Child Welfare (Head Office)  
Children's Services Division  
Ministry of Community and Social Services  
700 Bay Street, 2nd Floor  
Toronto, Ontario







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